



Bankruptcy (Scotland) Act 1985 (repealed)

1985 CHAPTER 66

Discharge of debtor

55 Effect of discharge under section 54.

- (1) Subject to [^{F1}subsections (2) and (3)] below, on the debtor's discharge under section 54 of this Act, the debtor shall be discharged within the United Kingdom of all debts and obligations contracted by him, or for which he was liable, at the date of sequestration.
- (2) The debtor shall not be discharged by virtue of subsection (1) above from—
 - (a) any liability to pay a fine or other penalty due to the Crown;
 - [^{F2}(aa) any liability to pay a fine imposed in a district court;
 - (ab) any liability under a compensation order within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995;]
 - (b) any liability to forfeiture of a sum of money deposited in court under section 1(3) of the ^{M1}Bail etc. (Scotland) Act 1980;
 - (c) any liability incurred by reason of fraud or breach of trust;
 - (d) any obligation to pay aliment or any sum of an alimentary nature under any enactment or rule of law or any periodical allowance payable on divorce by virtue of a court order or under an obligation, not being [^{F3}(i)] aliment or a periodical allowance which could be included in the amount of a creditor's claim under paragraph 2 of Schedule 1 to this Act; [^{F4}or (ii) child support maintenance within the meaning of the Child Support Act 1991 which was unpaid in respect of any period before the date of sequestration of—
 - (aa) any person by whom it was due to be paid; or
 - (bb) any employer by whom it was, or was due to be, deducted under section 31(5) of that Act.]
 - (e) the obligation imposed on him by section 64 of this Act.

Status: Point in time view as at 01/01/2015. This version of this provision has been superseded.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Section 55 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F5}(3) The discharge of the debtor under the said section 54 shall not affect any right of a secured creditor—
- (a) for a debt in respect of which the debtor has been discharged to enforce his security for payment of the debt and any interest due and payable on the debt until the debt is paid in full; or
 - (b) for an obligation in respect of which the debtor has been discharged to enforce his security in respect of the obligation.]
- ^{F6}[^{F7}(4) In subsection (2)(a) above the reference to a fine or other penalty due to the Crown includes a reference to a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002.]

Textual Amendments

- F1** Words in s. 55(1) substituted (retrospectively) by 1993 c. 6, s. 11(3), **Sch. 1 para. 23(2)(4)**
- F2** S. 55(2)(aa)(ab) inserted (S.) (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 58(4)**
- F3** Word "(i)" inserted (4.4.1993) by Child Support Act 1991 (c. 48, SIF 20), s. 58(13), **Sch. 5 para. 6(4)(a)** (with s. 9(2)); S.I. 1992/2644, **art. 2.**
- F4** Word "or" and s. 55(2)(d)(ii) inserted (4.4.1993) by Child Support Act 1991 (c. 48, SIF 20), s. 58(13), **Sch. 5 para. 6(4)(b)** (with s. 9(2)); S.I. 1992/2644, **art. 2.**
- F5** S. 55(3) inserted (retrospectively) by 1993 c. 6, s. 11(3), **Sch. 1 para. 23(3)(4)**
- F6** S. 55(4): by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 47** (with s. 223), it is provided (1.4.2008) that, in s. 55, subsection (3) (references to a fine or penalty to include a confiscation order), as inserted by paragraph 15(5) of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29), is renumbered as subsection (2A); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F7** S. 55(4) inserted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458(1)(3), **Sch. 11 para. 15(5)**; S.I. 2003/333, **art. 2(1)**, Sch. (subject to transitional provisions in arts. 3-14) (as amended by S.I. 2003/531); S.S.I. 2003/210, **art. 2(1)(b)**, Sch. (subject to transitional provisions in arts. 3-7)

Modifications etc. (not altering text)

- C1** S. 55(2) amended (E.W.S.) by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), **s. 39(6)**
- C2** S. 55(2) amended by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), **ss. 45(5)(c)**, 47(4)(a)
- C3** S. 55(2) amended by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123, 170, Sch. 8 para. 16, **Sch. 15 para. 109**
- C4** S. 55(2) extended (3.2.1995) by 1994 c. 37, **ss. 65(4)**, 69(2)
S. 55(2) extended (S.) (1.4.1996) by 1995 c. 43, **ss. 47(3)**, 50(2)
- C5** S. 55(2) excluded (S.) (31.3.1996) by 1995 c. 20, **ss. 113(7)**; S.I. 1996/517, **art. 3(2)**

Marginal Citations

- M1** 1980 c. 4.

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